

**COUNTY COUNCIL  
OF  
HARFORD COUNTY, MARYLAND**

**BILL NO. 09-33 As Amended**

Introduced: Council Member Slutzky, Council President Boniface, Council Members Shrodes, Lisanti and McMahan and Council President Boniface at the request of the County Executive:

Legislative Day No. 09-30

Date: October 20, 2009

AN ACT to repeal and reenact, with amendments, Subsection B(2)(a), Schools, of Section 267-126, Adequate Public Facilities, of Article XV, Growth Management, of Part 2, Miscellaneous Provisions, of Chapter 267, Zoning, of County Council Bill 05-45, as amended, as enacted by the County Council on February 7, 2006; to provide that the state rated capacity be used to determine capacity at school facilities; to require three year enrollment projections for schools; to provide that preliminary plans and site plans may be approved for developments where the enrollment is or is projected to be greater than 110% under certain circumstances; and generally relating to school adequacy standards.

By the Council, October 20, 2009

Introduced, read first time, ordered posted and public hearing scheduled

on: November 17, 2009

at: 7:00 p.m.

By order: Barbara J. O'Connor, Council Administrator  
PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on November 17, 2009, and concluded on November 17, 2009.

Barbara J. O'Connor, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter Deleted from existing law. Underlining indicates language added to bill by amendment. Language lined through indicates matter stricken out of Bill By amendment.

Section 1. Be It Enacted by The County Council of Harford County Maryland, that Subsection B(2)(a), Schools, of Section 267-126, Adequate Public Facilities, of Article XV, Growth Management, of Part 2, Miscellaneous Provisions, of Chapter 267, Zoning, of County Council Bill 05-45, as amended, as enacted by the Council on February 7, 2006, be, and it is hereby, repealed and reenacted, with amendments, to read as follows:

Chapter 267. Zoning.

Part 2. Miscellaneous Provisions.

Article XV. Growth Management.

Section 267-126 Adequate Public Facilities.

B. Adequacy standards (minimum acceptable level of service).

(2) Residential development. Approval of residential subdivision plans and site plans for multi-family development shall be subject to findings of adequate capacity based on the standards set in this subsection and the current and projected use level described in the annual growth report:

(a) Schools.

(1) Preliminary approval. Preliminary subdivision plans exceeding 5 lots and site plans for multi-family residential developments exceeding 5 dwelling units shall not be approved at locations where either of the following conditions exists:

(a) The enrollment at the elementary school which serves the site is greater than 110% of the STATE rated capacity or is projected to be greater than 110% within [5] 3 years; or

(b) The enrollment of either the middle school or high school which serves the site is greater than 110% of the STATE rated capacity or is projected to be greater than 110% within [5] 3 years.

(2) Conditional review. If paragraphs (2)(a)(1)(a) or (b) of this subsection prevent approval of a preliminary subdivision plan or a site plan, the Department of Planning and

1 Zoning may proceed with conditional review of the plan and place it on a waiting list  
2 arranged by date of completion of the review. Record plats, grading permits and public  
3 works agreements for utilities or roads shall not be executed by the County until the plan  
4 for the project is removed from the waiting list and preliminary approval is granted.  
5 Removal from the waiting list shall occur only when the condition that prevented  
6 approval under paragraphs (2)(a)(1)(a) or (b) of this subsection no longer exists.

7 ~~(3) CAPITAL PROJECT. A PRELIMINARY SUBDIVISION PLAN OR A SITE PLAN~~  
8 ~~MAY BE APPROVED WHEN THE ENROLLMENT OF A SCHOOL SERVING THE~~  
9 ~~SITE IS GREATER THAN 110% OF THE STATE RATED CAPACITY, IF THE~~  
10 ~~FOLLOWING CONDITIONS EXIST:~~

11 ~~(A) THE APPROVED CAPITAL BUDGET CONTAINS A CAPITAL~~  
12 ~~PROJECT THAT HAS APPROPRIATIONS SUFFICIENT TO FUND THE~~  
13 ~~CONSTRUCTION OF A NEW SCHOOL, A SCHOOL ADDITION OR~~  
14 ~~SCHOOL RENOVATION WHICH, UPON COMPLETION, WILL REDUCE~~  
15 ~~THE ENROLLMENT AT THE SCHOOL WHICH SERVES THE SITE~~  
16 ~~BELOW 110% OF THE STATE RATED CAPACITY;~~

17 ~~(B) ACTUAL CONSTRUCTION OF THE CAPITAL PROJECT HAS BEGUN;~~  
18 ~~AND~~

19 ~~(C) THE CAPITAL PROJECT IS SCHEDULED TO BE COMPLETED AND~~  
20 ~~OPERATIONAL WITHIN 2 YEARS.~~

21 (3) CAPITAL PROJECT. A PRELIMINARY PLAN OR SITE PLAN MAY BE APPROVED  
22 WHEN THE ENROLLMENT OF A SCHOOL SERVING THE SITE IS GREATER THAN  
23 110% OF THE STATE RATED CAPACITY, IF THE FOLLOWING CONDITIONS EXIST:

1       (A) THE APPROVED CAPITAL BUDGET CONTAINS A CAPITAL PROJECT  
2       THAT HAS APPROPRIATIONS SUFFICIENT TO FUND CONSTRUCTION OF  
3       A NEW SCHOOL , A SCHOOL ADDITION OR SCHOOL RENOVATION ,  
4       WHICH UPON COMPLETION, WILL REDUCE THE ENROLLMENT AT THE  
5       SCHOOL THAT SERVES THE SITE TO 110% OR LESS OF THE STATE  
6       RATED CAPACITY BASED ON THE FOLLOWING:

7       (1) INFORMATION PROVIDED BY THE BOARD OF EDUCATION THAT  
8       DEMONSTRATES THAT THE ENROLLMENT OF THE SCHOOL SERVING  
9       THE SITE WILL BE 110% OR LESS DUE TO THE CAPITAL PROJECT; OR

10      (2) IN THE EVENT THAT THE BOARD OF EDUCATION FAILS TO PROVIDE  
11      THE DEPARTMENT OF PLANNING WITH THE INFORMATION AS  
12      PROVIDED IN SUBPARAGRAPH (1) OF THIS PARAGRAPH PRIOR TO  
13      THE NEXT SCHEDULED TESTING DATE FOR ADEQUACY AS  
14      PROVIDED HEREIN, THE DEPARTMENT OF PLANNING SHALL REVIEW  
15      THE ADJACENT SCHOOL ATTENDANCE AREAS, AS PROVIDED IN THE  
16      MOST RECENT ANNUAL GROWTH REPORT, TO DETERMINE  
17      WHETHER THE CAPITAL PROJECT WOULD PROVIDE ADEQUATE  
18      CAPACITY TO ALLOW THE BOARD OF EDUCATION TO REDUCE  
19      ENROLLMENT AT THE SCHOOL SERVING THE SITE TO 110% OR LESS  
20      OF THE STATE RATED CAPACITY;

21      (B) ACTUAL CONSTRUCTION OF THE CAPITAL PROJECT HAS BEGUN; AND

22      (C) THE CAPITAL PROJECT IS SCHEDULED TO BE COMPLETED AND  
23      OPERATIONAL WITHIN 2 YEARS.

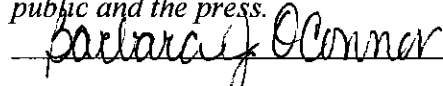
1        [(3)] (4) Exemptions. The provisions of this subsection shall not apply to transient  
2        housing, housing for the elderly and continuing care retirement communities.

3        [(4) Grandfathering. The provisions of this section concerning the adequacy of schools  
4        shall not apply to those developments which, as of the effective date of Bill No. 91-70  
5        (4/6/92), have an approved preliminary plan.]

6        Section 2.        And Be it Further Enacted, That this Act shall take effect 60 calendar days  
7        from the date it becomes law.

EFFECTIVE: January 22, 2010

*The Council Administrator does hereby  
certify that fifteen (15) copies of this Bill are  
immediately available for distribution to the  
public and the press.*

  
\_\_\_\_\_  
Council Administrator

HARFORD COUNTY BILL NO. 09-33

Brief Title Adequate Public Facilities Schools

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

**CERTIFIED TRUE AND CORRECT**

Barbara J. O'Connor  
Council Administrator

Date November 17, 2009

**ENROLLED**

Ricky Bonifant  
Council President

Date November 17, 2009

**BY THE COUNCIL**

Read the third time.

Passed: LSD 09-33

Failed of Passage: \_\_\_\_\_

By Order

Barbara J. O'Connor  
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 18<sup>th</sup> day of November, 2009 at 3:00 p.m.

Barbara J. O'Connor  
Council Administrator

**BY THE EXECUTIVE**

David R. Craig  
COUNTY EXECUTIVE

APPROVED: Date November 23, 2009

**BY THE COUNCIL**



This Bill No. 09-33 As Amended, having been approved by the Executive and returned to the Council, becomes law on November 23, 2009.

EFFECTIVE DATE: January 22, 2010

Barbara J. O'Connor  
Barbara J. O'Connor  
Council Administrator